

Resources

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Rob Booth

Our ref: MGLA060411-5391

Date:

Dear Mr Booth

Thank you for your email requesting information under the Environmental Information Regulations (EIR), which was received on 5 April 2011. Please accept my apologies for the delay in providing you with a response.

You asked for correspondence between The Prince of Wales and Clarence House officials and elected representatives and officials of the Greater London Authority regarding planning matters in the capital since May 2008 including, but not exclusively, about the Chelsea Barracks and tall buildings.

We conducted searches in the Mayor's Office, in the GLA's Planning directorate and on the GLA's correspondence system. I can confirm that there are two pieces of correspondence that fall within the scope of your request: a letter from Sir Michael Peat, Clarence House to the Mayor, and a note from Kit Malthouse, Deputy Mayor for Policing and Assembly Member for West Central to The Prince of Wales.

This information is exempt from disclosure under regulation 12(5)(f) (protection of interests of individuals) and regulation 13 (personal data) of the EIR. Please see the annex to this letter for further details.

If you have any further queries, please contact me quoting the reference above.

Yours sincerely

Albert Chan

Information Governance Manager

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints procedure, available at <http://www.london.gov.uk/freedom-information>.

Annex – Exceptions that apply and reasoning

Exceptions

Regulation 12(5)(f) – Protection of interests of individuals

The interests of the person who provided the information where that person –
(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
(iii) has not consented to its disclosure.

Regulation 13 – Personal data

(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.

(2) The first condition is -

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene -

(i) any of the data protection principles; or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress) and in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it; and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998[7] (which relate to manual data held by public authorities) were disregarded.

(3) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1) of that Act and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.

How the exceptions apply to this information

The letter from Sir Michael Peat to the Mayor is exempt from disclosure under regulation 12(5)(f). This exception applies where disclosure of the information would adversely affect the interests of a person who:

- supplied information voluntarily,
- supplied it in the expectation that it would not be disclosed to a third party, and
- has not consented to disclosure of the information supplied.

The three limbs of this regulation are met as follows: (1) The Prince of Wales was not under any legal obligation to supply the information in his letter. (2) It was provided with an expectation of confidence and the GLA does not have any statutory power to

disclose the information except under the Environmental Information Regulations. (3)
The Prince of Wales has not consented to disclosure of the information in question.

Disclosure of this information would adversely affect The Prince of Wales because as heir to the throne the sensitivity of his communications with public authorities are unlikely to diminish with time due to the fact that once he is the Sovereign he will remain in office for life. Disclosure therefore could appear to undermine his political neutrality. Furthermore, release of this information would impinge upon The Prince of Wales' privacy.

The letter from Kit Malthouse to the Prince of Wales is exempt from disclosure under regulation 13 as its contents constitute Kit Malthouse's personal data. It sets out his opinions on the various matters discussed in the letter and is clearly a personal, rather than official, note (it is handwritten). Disclosure of this information would breach the first principle of the Data Protection Act which states that personal data must be processed fairly and lawfully. It would be unfair to disclose this information as there would have been no reasonable expectation that disclosure would occur and no consent has been given for disclosure.

Public interest test

All exceptions under the Environmental Information Regulations are subject to a public interest test.

Public interest arguments in favour of disclosure:

- There is a public interest in disclosure of information that would increase the public's understanding of how government (including the GLA) interacts with the Royal Household. This is due to the Monarchy's key role in the British constitution.
- It is in the public interest to understand the level of influence (if any) exerted by The Prince of Wales on matters of public policy, such as the future of the Chelsea Barracks site. This could promote public confidence in how the government engages with The Prince of Wales.

Public interest arguments in favour of non-disclosure:

- The adverse effects mentioned above would not be in the public interest as they would result in The Prince of Wales, as Heir to the Throne, being less prepared for the business of government when he is Monarch and might undermine the ability of the Sovereign to exercise her right to consult, encourage and warn Her Government.
- This can only be maintained if both The Prince of Wales and government officials who advise and inform him about the business of government can be assured that the communications between them will remain confidential.

- It is in the public interest that the Heir to the Throne is not perceived to be politically biased. The political neutrality of the Monarchy is key to the position of the Sovereign in a constitutional democracy.
- It is in the public interest that the privacy of the Royal Family is protected.

On balance, it is considered that the public interest in maintaining the exemption outweighs the public interest in favour of disclosure. This is due to the significance of maintaining the convention that provides a confidential space in which the Heir to the Throne can communicate with government, and the principles of political neutrality and confidentiality which underpin it.